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10/565,819

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Warner R. T. Ten Kate

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

HUQ, FARZANA B

ART UNIT

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2455

MAIL DATE

DELIVERY MODE

10/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,819	Applicant(s) TEN KATE ET AL.	
	Examiner FARZANA HUQ	Art Unit 2455	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is response to the amendment filed on July 17, 2008. Claims 1-20 are amended. The examiner withdraws specification objection, 35 U.S.C 112 second paragraph rejection claims which were made in previous office action as proper correction has been made to claims. The examiner further withdraws the 35 U.S.C. 101 rejections as claim has been amended properly.

Claims 1-20 are pending in this office action.

Response to Arguments

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 20 recites the term “**computer readable medium**” is not defined in the specification with further detail for one in the ordinary skill in the art to understand what **computer readable medium** represents.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

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Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

4. Claim 20 is rejected under 35 U.S.C. 101 because the claim invention is directed to non-statutory subject matter. According to the specification of the invention "**computer readable medium comprising program instructions**" is reasonably interpreted by one of ordinary skill as just software, it is a system of software, per se. In this claim the function of the program is just software not any hardware. *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. Similarly, computer readable medium claimed as computer instructions per se, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. Accordingly, it is important to distinguish claims that define descriptive material per se

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from claims that define statutory inventions. So, it does not appear that a claim reciting computer instructions with functional descriptive material falls within any of the categories of patentable subject matter set forth in § 101.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-8, 10-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lamkin et al. hereinafter Lamkin (U.S. Publication 2002/0078144).

Lamkin teaches the invention as claimed including presentation of media content from multiple media (see abstract).

7. As per claim 1, Lamkin discloses a system comprising: a rendering apparatus; a server; and a network to enable communication between the rendering apparatus and the server (figure 2, paragraphs [0037]); to enable the server provides access to server content that includes separately accessible content server items identified by respective server content locators (paragraphs [0037, 0065, 0103, 0129, 0165, 0237]); wherein the rendering apparatus provides access to local content wherein titles of the local content are associated with respective local content identifiers; wherein the rendering apparatus is operative to render local content items of the local content and to render server content items that relate to the local content items (paragraphs [0062, 0065, 0095, 0165, 0172, 0221, 0222]); wherein the system is operative to generate and to store a list of bookmarks, wherein each bookmark in the list of bookmarks

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includes a server content locator and a local content identifier to link a local content item to a related server content item (paragraphs [0104, 0130, 0134, 0137, 0166, 0172, 0205, 0206, 0237]); and wherein the rendering apparatus is operative to present the stored list of bookmarks to a user for selection of a bookmark and render a server content item indicated by the server content locator of a user-selected bookmark conditional on having access to a local content title associated with the local content identifier of the user-selected bookmark (paragraphs [0095, 0103-104, 0129, 0172, 0205-206]).

8. As per claim 2, Lamkin discloses a system wherein the rendering apparatus includes a user interface for presenting to the user which bookmarks in the stored list of bookmarks are selectable at a given time for rendering of server content indicated by the respective bookmark at that time (paragraphs [0054, 0065, 0095, 0103-0104, 0129, 0130]).

9. As per claim 3, Lamkin discloses a system wherein a bookmark is selectable only if the rendering apparatus has access to a local content title associated with the local content identifier of the bookmark (paragraphs [0062, 0065, 0095, 0165, 0172, 0221, 0222]).

10. As per claim 4, Lamkin discloses a system wherein the rendering apparatus includes a user interface for presenting bookmarks to a user organized according to the respective local content identifiers of the bookmarks (paragraphs [0037-0038, 0062, 0095, 0102, 0165, 0172, 0221, 0222]).

11. As per claim 5, Lamkin discloses a system wherein the rendering apparatus is operative to render a server content item indicated by the server content locator of a user-selected bookmark in synchronization with rendering the local content title associated with the local

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content identifier of the bookmark upon user selection of the user-selected bookmark (paragraphs [0129-0130, 0137-0139, 0182, 0205-0206]).

12. As per claim 6, Lamkin discloses a system wherein separately accessible items of the local content are identified by respective local content locators, wherein the bookmark-includes a local content locator enabling starting the rendering of the local content title at a location indicated by the local content locator (paragraphs [0095, 0129-0130, 0136-0139]).

13. As per claim 7, Lamkin discloses a system wherein the bookmark includes a user identifying a user of the rendering apparatus, or a family ID identifying a family of users of the rendering apparatus or both user and family IDs (paragraphs [0182, 0195]).

14. As per claim 8, Lamkin discloses a system wherein the user interface is operative to present the stored bookmarks organized according to the user ID or family ID of the bookmarks or both user and family IDs (paragraphs [0182, 0195, 0219-0222]).

15. As per claim 10, Lamkin discloses a system wherein the system is operative to generate and store a bookmark in the bookmark list in response to an instruction from a user, wherein the generated bookmarks each include a server content locator identifying a server content item currently being rendered and a local content identifier associated with a local content item that currently is accessible (0037-0038, 0062, 0095, 0102, 0129-0130, 0137-0139, 0165, 0172, 0205-0206, 0222).

16. As per claim 11, Lamkin discloses a system wherein the system is operative to generate bookmarks automatically (paragraphs [0037-0038, 0068, 0166, 0172, 0207]).

17. As per claim 12, Lamkin discloses a system wherein the system is operative to generate a bookmark for a server content item in response to an instruction to terminate rendering of a

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server content item to enable resumption of rendering of the server content item (paragraphs [0095, 0129-0130, 0137-0139, 0182, 0205-0206]).

18. As per claim 13, Lamkin discloses a system wherein the system is operative to generate a bookmark for a server content item in response to a user selecting a server content item for rendering, creating a history list of bookmarks (paragraphs [0037, 0065, 0103, 0129, 0136-0138, 0205-0206]).

19. As per claim 14, Lamkin discloses a system wherein the rendering apparatus is operative to verify an authenticity of an accessible local content title and to render a server content item indicated by the server content locator of a bookmark only upon a positive outcome of the verification (paragraph [0134]).

20. As per claim 15, Lamkin discloses a system wherein a local content title is stored on a removable storage medium including a medium identifier, wherein the local content identifier includes the medium identifier (paragraph [0134, 0182]).

21. As per claim 16, Lamkin discloses a system wherein the rendering apparatus is operative to generate the bookmarks (paragraphs [0037-0038, 0068, 0166, 0172, 0207]).

22. As per claim 17, Lamkin discloses a system wherein the server is operative to store the bookmarks (paragraphs [0037, 0065, 0103, 0129, 0165, 0237]).

23. As per claim 18, Lamkin discloses a method comprising acts of: retrieving a local content identifier associated with a title of a local content item that accessible for rendering by a rendering apparatus local to the local content item (paragraphs [0062, 0065, 0095, 0165, 0172, 0221, 0222]); retrieving a server content locator, identifying a separately accessible server content item that is related to the local content title; and generating and storing a new bookmark

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in a list of bookmarks to link the local content item to the related server content item, wherein the new bookmark includes the retrieved server content locator and corresponding local content identifier (0095, 0103-104, 0129, 0136-0137, 0165-0167, 0172, 0205-206]).

24. As per claim 19, Lamkin discloses a method including acts of: presenting a list of bookmarks to a user enabling user-selection of one or more bookmarks in the presented list of bookmarks, wherein each bookmark in the list of bookmarks includes a local content identifier associated with a local content title of local content item accessible for rendering by a rendering apparatus local to the local content item, and a server content locator identifying a separately accessible server content item that is related to the local content title of the local content item (paragraphs [0062, 0065, 0095, 0104, 0130, 0134, 0137, 0166, 0172, 0205, 0206, 0237]); and in response to a user-selected bookmark in the presented list of bookmarks, rendering a server content item indicated by the server content locator of the user-selected bookmark conditional on having access to the local content title associated with the local content identifier of the user-selected bookmark (paragraphs [0062, 0065, 0095, 0129-0130, 0137-0139, 0165, 0172, 0221, 0222]).

25. As per claim 20, Lamkin discloses computer readable medium comprising programs instructions stored thereon, which are executable by a processor to perform (paragraphs [0037-0038]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

26. Claims 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Lamkin et al. hereinafter Lamkin (U.S. Publication 2002/0078144) in view of Glenn Evans hereinafter Evans (U.S. Patent 7200323).

Lamkin teaches the invention substantially as claimed including presentation of media content from multiple media (see abstract).

27. As per claim 9, Lamkin discloses a system wherein the rendering apparatus is operative to present a bookmark or to render a remote item indicated by a bookmark, or present and render (paragraphs [0062, 0065, 0095, 0165, 0172, 0221, 0222]).

Lamkin does not expressly disclose wherein the bookmark includes a parental level indicator only if only if the parental level indicator of the bookmark matches a parental level setting of the rendering apparatus.

However, in the same field of endeavor Evans discloses wherein the bookmark includes a parental level indicator only if only if the parental level indicator of the bookmark matches a parental level setting of the rendering apparatus (col. 2 lines 5-26, col. 3 lines 23-38, col. 6 lines 36 - col. 7 lines 5).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of invention was made to have incorporated Lamkin's teaching with the teaching of Evans. One would be motivated to implement parental control indicator to identify if a particular content is restricted for viewing for restricting unwanted or harmful information. If the parental level matches with the indicated set level, only then content are legitimate for viewing.

Conclusion

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

29. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.

30. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific

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limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FARZANA HUQ whose telephone number is (571)270-3223. The examiner can normally be reached on Monday - Friday: 7:30am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Farzana Huq/

Examiner, Art Unit 2455

/saleh najjar/

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